

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

JESSICA BENNA,

Plaintiff,

v.

T-MOBILE USA, INC.,

Defendant.

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) **Case No. 6:20-cv-3353**
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NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, defendant T-Mobile USA, Inc. (“T-Mobile”) hereby removes to the United States District Court for the Western District of Missouri the action styled *Jessica Benna v. T-Mobile USA, Inc.*, Case No. 2031-CC01225, currently pending in the Circuit Court of Greene County, Missouri. T-Mobile removes this case on grounds of federal question jurisdiction under 28 U.S.C. § 1331. In support of its Notice of Removal, T-Mobile states as follows:

1. Plaintiff Jessica Benna commenced this action by filing a civil Petition in the Circuit Court of Greene County, Missouri, as Docket No. 2031-CC01225, on or about October 9, 2020 (the “Petition”), a copy of which is attached to this Notice as Exhibit 1.

2. In her Petition, plaintiff alleges two counts. In Count II, plaintiff alleges that T-Mobile violated the federal Family and Medical Leave Act, 26 U.S.C. § 2601 *et seq.* See Petition ¶¶ 20-31.

3. Because plaintiff’s claims raise federal questions, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331, and the action may be removed to this Court pursuant to 28 U.S.C. § 1441.¹

¹ T-Mobile further states that it is organized under and has its principal place of business in states other than Missouri, and it appears from the face of the Petition that plaintiff is seeking alleged damages for lost wages, emotional distress, punitive damages, costs, and attorneys’ fees which are

4. Plaintiff provided a copy of the Petition to T-Mobile by requesting a waiver of service on or about October 30, 2020. A T-Mobile representative executed the waiver and returned it to counsel for plaintiff. A copy of the executed waiver is attached as Exhibit 2 to this Notice of Removal.

5. The Circuit Court of Greene County, Missouri, is located within the judicial district embraced by this Court.

6. This Notice of Removal is timely because it is filed within thirty (30) days of receipt of the Complaint as required by 28 U.S.C. § 1446(b).

7. Concurrent with this filing, T-Mobile has caused to be filed a true and correct copy of this Notice of Removal with Civil Records of the Circuit Court of Greene County, Missouri.

8. Written Notice of the filing of this Notice of Removal is also being served on plaintiff's counsel on this date pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, defendant T-Mobile USA, Inc. removes the action now pending in the Circuit Court of Greene County, Missouri, Case No. 2031-CC01225, to the United States District Court for the Western District of Missouri.

Respectfully submitted,

/s/ David C. Vogel

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Attorneys for Defendant T-Mobile USA, Inc.

likely in excess of the \$75,000 jurisdictional amount. *See* Petition, WHEREFORE clauses in Counts I and II. Accordingly, T-Mobile also could remove this case pursuant to 28 U.S.C. § 1332, although it is unnecessary to do so at this time.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of November, 2020, a true and correct copy of the foregoing Notice of Removal was served via email and United States mail, first class, postage pre-paid, upon the following:

Raymond Lampert
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Springfield, MO 65804
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Attorney for Plaintiff

/s/ David C. Vogel

An Attorney for Defendant